BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer	Chair
Marshall Johnson	Commissioner
Phyllis A. Reha	Commissioner
Gregory Scott	Commissioner

In the Matter of Qwest Corporation's Alternative Form of Regulation (AFOR) Service Quality Plan	ISSUE DATE: August 25, 2003 DOCKET NO. P-421/AR-97-1544
In the Matter of Qwest Corporation's Compliance with the Retail Service Quality Components of its Merger Agreement	DOCKET NO. P-421, et al/PA-99-1192 ORDER SETTING 2002 PENALTY AMOUNTS AND DIRECTING DISBURSEMENT OF FUNDS

PROCEDURAL HISTORY

I. History of this Case

On December 11, 1998, the Commission issued its Order approving an alternative form of regulation plan (AFOR)[1] for US West Communications Inc. (USWC).[2] The AFOR was effective January 1, 1999. The plan includes, among other things, service quality standards and corresponding penalties for failures to meet the standards. The plan requires the company to provide monthly data (reported quarterly) on held orders, installation data for design and non-design services, out-of-service repair rates, missed repair appointments, trouble and repeat trouble rates, response times, and complaints.

For standards that are exchange-specific, penalties are to be paid to each customer located within the affected exchange. For failure to meet statewide standards, penalty payments are to be made to a telecommunications fund to be used primarily to benefit the Company's customers in Minnesota through telecommunications projects in the Company's local service territory.

[1] FINAL ORDER REGARDING USWC'S ALTERNATIVE REGULATION PLAN, PURSUANT TO MINN. STAT. § 237.764, Subd.2, Docket No. P421/AR-97-1544.

[2] Formerly U S West, now Qwest Corporation (Qwest).

On June 28, 2000 the Commission issued its ORDER ACCEPTING SETTLEMENT AGREEMENTS AND APPROVING MERGER SUBJECT TO CONDITIONS,[3] which, among other things, accepted and adopted the Stipulation and Agreement between the petitioners and the Department of Commerce (DOC) and the Residential and Small Business Utilities Division of the Office of the Attorney General (RUD-OAG) as modified by the parties' May 4 and 15, 2000 filings. This agreement (Merger Stipulation) imposed procedural and substantive conditions in the areas of overall service quality, advanced services and wholesale service quality.

Qwest submitted its 2002 quarterly reports On May 15, August 15, November 15, 2002, and February 14, 2003.

The DOC filed comments on May 7, 2003. The DOC estimated Qwest's penalties to be $135,503 for failure to meet certain service quality standards in 2002. The DOC also determined that Qwest met all of its AFOR service quality standards during 2002 and was not required to pay additional penalties under the AFOR.

II. History of the Consumer Outreach Program

On April 13, 2001, the Commission issued its ORDER SETTING 1999 PENALTY AMOUNTS AND DIRECTING DISBURSEMENTS OF FUNDS FOR 1999 AND PART OF 1998. [4] Among other things, this Order directed that the penalty incurred by Qwest for the period July 1, 1998 through December 31, 1998 be used for a consumer outreach program to be conducted by an entity to be approved by the Commission.

The DOC was to make an informational filing detailing its plan for the consumer outreach and education campaign and file a description of all proposals submitted and make recommendations for Commission decision.

On August 7, 2001, after the DOC submitted for Commission approval its notice of Request for Proposals (RFP), the Commission asked the DOC to revise its RFP to reflect the Commission's and the DOC's intent for the DOC to take direct charge of the project and only submit the following for Commission action:

a. for Commission approval - the DOC's recommendation on the choice of vendor for the outreach project;
b. for Commission notice - the DOC's report with a copy of each resulting end-product, and a complete accounting of how the $890,500 was spent.

[3] In the Matter of the Merger of the Parent Corporations of Qwest Communications Corporation, LCI International Telecom Corp., USLD Communications, Inc., Phoenix Communications, Inc., Docket No. P-3009, 3052, 5096, 421, 3017/PA-99-1192.

[4] In the Matter of an Investigation into Qwest Corporation's Service Quality and In the Matter of Qwest Corporations's Alternative Form of Regulation (AFOR) Service Quality Plan. Docket Nos. P-421/CI-95-648 and P-421/AR-97-1544.

On July 1, 2002, the Commission approved Colle and McVoy as the vendor for the Consumer Outreach Program.

On July 16, 2003, the DOC submitted its report on the implementation of the Outreach Program and the status of the penalty fund. The DOC recommended that the remaining funds be redirected into the state's general fund.

The above matters came before the Commission on August 7, 2003.

FINDINGS AND CONCLUSIONS

This Order addresses only two issues: 1) the amount and use of Qwest's penalty payment related to service quality performance for the period January 1 through December 31, 2002, and 2) the DOC's report on the status of the Consumer Outreach Program and any recommendations.

III. The Amount and Use of Penalties for the Period January 1, 2002 through December 31, 2002

A. Background

As part of its AFOR, Qwest agreed to eight service quality standards, along with customer-specific remedies and penalty payments for failure to meet those standards. Those standards included in the AFOR are as follows:

- primary line held orders;
- missed installations for designed services;
- missed installations for non-designed services;
- trouble report rate;
- repeat trouble report rate;
- out-of-service troubles cleared in 24 hours;
- service center answer times; and
- missed repair appointments.

For standards that are exchange-specific, penalties are to be paid to each customer located within the affected exchange. For failure to meet statewide standards, penalty payments are to be made to a telecommunications fund to be used primarily to benefit Qwest's customers in Minnesota through telecommunications projects in Qwest's local service territory.

The Merger Stipulation contains additional penalties and customer remedies over and above those provided for under the AFOR.

B. Qwest's Penalty Calculation

Qwest calculated penalties of $126,072 for 2002. The penalties were categorized as follows:

	Exchange Specific	To Telecom Fund
Held Orders	-	-
Installation of Designed Services	-	-
Installation of Non Designed Services	$ 6,243	-
Trouble Reports	$ 95,214	-
Repeat Trouble	-	-
Repair	-	$18,200
Missed Repair Appointments	$ 3,315	-
Service Center Answer Time	-	$ 3,100
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	$104,772	$21,300
Total	**$126,072**	

C. DOC's Comments

The DOC estimated that Qwest's penalties for 2002 should be $132,503. It disagreed with the calculations by Qwest in two areas: 1) the trouble report, and 2) the out of service troubles cleared in 24 hours ("repair" on the above chart). Each will be discussed below.

The DOC argued that the AFOR established a standard of no more than 2.5 trouble reports per 100 access lines per month by wire center. Qwest would be required to pay penalties if an exchange exceeds a trouble report rate of 2.5 trouble reports per 100 access lines in more than 3 months out of the year. Qwest did not meet the AFOR standard in 11 exchanges, including one border exchange, affecting approximately 31,815 access lines, thereby incurring penalties of $95,445. The difference between the DOC's calculation and Qwest's ($95,214) was due to Qwest's not including penalties for Minnesota customers in border exchanges.

The DOC further stated that the AFOR required Qwest to clear 95 percent of its out-of-service trouble reports within 24 hours. The DOC argued that Qwest did not meet this standard during four months of the year. This would result in penalties of $24,400. Qwest did not count the month of August as a month that it failed to meet the above requirements.

At hearing, Qwest agreed to the calculations of penalties presented by the DOC.

The DOC recommended that penalties of $105,003 be paid to the affected customers and $27,500 be paid into the telecommunications fund for grants to libraries, schools and rural healthcare facilities.

D. Commission Action on Penalties

The Commission accepts the penalty calculations of the DOC, and agreed to by Qwest, for penalties incurred for the 2002 calendar year and also accepts the way the penalty money is to be disbursed. The Commission agrees that under the terms of the Company's AFOR plan Qwest will be assessed penalties of $132,503 for the period January through December 2002. Of this amount, $105,003 will be provided to customers in the exchanges where Qwest failed to meet the exchange-specific standard and the remaining $27,500 statewide penalty will be put in the telecommunications fund to benefit K-12 education, healthcare and libraries.

IV. Status of the Consumer Outreach Program

A. The DOC's Position

The Consumer Outreach Program [5] focused on reaching underserved populations and increasing the number of Minnesotans participating in the Telephone Access Program (TAP), Link-Up, Lifeline and Telephone Equipment Distribution (TED), programs designed to make telephone service available to low-income persons. The major components of the program were:

- creating the website www.mnphonehelp.com, linked to the DOC's webpage and giving information on Lifeline, Link-up, TAP and TED;
- publishing articles and public service announcements in the print media;
- designing print materials, including brochures, instructional pages, and posters which were distributed to community agencies;
- advertising the programs inside buses and at bus shelters;
- developing radio commercials advertising the programs and listing First Call's telephone number for more information;
- making eligibility information available at First Call.

The DOC noted that several components of the program would continue even after the program has ended. Programs such as the information on the DOC's website, an electronic version of the brochure, and social service and community organizations' referrals to the telephone programs would continue.

The DOC reported that, at this time, approximately $564,000 of funds allocated to Consumer Outreach have not been spent. However, the DOC indicated that the program's major goals of reaching underserved populations have been largely implemented, and that further outreach efforts would continue outside of a formal program. The DOC believed that the attainment of more general outreach goals that could be accomplished with the remaining funds did not warrant spending those funds. It was the recommendation of the DOC that the remaining funding be redirected, specifically to the general fund. At hearing, the DOC argued that the remaining funding should be directed to the general fund or returned to the ratepayers.

[5] The Consumer Outreach Vendor was Colle McVoy.

B. Commission Action

At hearing, several suggestions and questions regarding other uses for the remaining funds were presented to the Commission. The Commission found that the suggestions made required further development. For this reason, the Commission will delay a decision on the use of these funds to allow 60 days for further development of the issues.

ORDER

1. The penalty amount of $132,503 related to Qwest's service quality performance for 2002 is approved. Of this amount, $105,003 shall be credited to the affected customers for exchange specific penalties and $27,500 shall be added to the telecommunications fund for the statewide penalties.

2. Qwest shall issue the bill credits to customers in the affected exchanges and shall add the statewide penalty to the telecommunications fund within 60 days of this Order.

3. The Commission takes notice of the DOC's report on the Consumer Outreach Program.

4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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